

**Rule 4.700: Title 4 -- Office of the State Auditor Administrative Procedure
Regulating Procedures for the Collection, Settlement and Refund of State Imposed
Assessments.**

PURPOSE OF REGULATIONS:

**To prescribe procedures for the settlement and refund of all state assessments imposed by
municipal and county courts.**

AUTHORITY TO PRESCRIBE REGULATIONS:

**These regulations are prescribed in accordance Sections 99-19-73, 83-39-31 and 7-7-211,
Miss. Code Anno..**

EFFECTIVE APPLICATION OF REGULATIONS:

**These regulations shall supercede all previously issued regulations from this office which
are contrary to the following provisions.**

EFFECTIVE DATE OF REGULATIONS:

These regulations are effective from and after June 30, 2005.

I. DEFINITIONS:

- 1. ASSESSMENTS** - The term assessments shall include all court imposed fees, fines, or other amounts imposed upon a defendant or other person responsible for such costs in municipal or county courts; which are required by state law to be collected by the court and settled to a state agency. These include, but are not limited to, amounts to be collected for settlement to the state and classified as State Uniform Assessments (Section 99-19-73), State Court Constituents Assessments (Section 37-26-9), Crime Stoppers Assessments (Section 45-39-17), State Appearance Bond Fees (Section 83-39-31), Hunting Violation Fees (Section 49-7-21), State Criminal Justice Fund Assessments (Section 97-19-67), Domestic Violence Fees (Section 25-7-13), Drivers License Reinstatement Fees (Section 63-11-30), Drug Abuse Drivers License Reinstatement Fees (Section 63-1-71), Highway Patrol and Local Citation Assessments (Section 63-9-31), Adult Drivers Training Fees (Section 63-9-11), State Court Education Assessments (37-26-3) and Compulsory Motor Vehicle Liability Insurance Fines (Section 63-15-4).

2. **State Agency** - This term shall include, but not be limited to, the Mississippi Department of Finance and Administration and the Mississippi Department of Public Safety. It shall also include state agencies receiving distribution of assessment funds which were initially settled to another state agency.

II.. COLLECTION OF ASSESSMENTS

1. **Who Collects Assessments:** Only the clerk of the court or authorized deputy court clerk may receipt an assessment collection.
2. **How Assessments are Collected:**
 - A. **Cash**
 - B. **Check from a Miss. resident paying a Title 63 Ch. 3, 5, or 7 traffic violation** (required by Section 63-9-12). Court Clerks are not responsible for bad checks received in payment of these types of violations if a reasonable collection effort is made.
 - C. **Other check, money order, etc.**
 - (1) Court Clerks are responsible for collections of bad checks (other than those covered under Section 63-9-12), bad money orders, and any other form of bad payment.
 - (2) If a bad check is received, Section 97-19-57 explains the procedure for notification to the defendant that a check has been dishonored and to authorize the service charge.
 - D. **Working assessments off** may be authorized by the court, Section 47-1-47 and Section 99-19-20 (see Attorney General's Opinion. Priscilla Daniels 10/3/90). The county does not reimburse the state for the loss. The county also may not pay the constable for his or her loss (see Attorney General's Opinion Sue Gann, 9/11/91).

3. PARTIAL COLLECTIONS

- A. The determination of whether a partial payment is classified as an assessment collection or other obligation to the court is based upon the judges "order of collection policy". However, Section 25-7-27 (2) requires constables to be paid from first collections.

- B. Partial collections must be settled monthly.

III. ACCOUNTING FOR ASSESSMENTS

1. **Receipts**, as required by state law, must be issued to support each collection.
2. **Account Funds**
 - A. Criminal assessments held by Court Clerks must be accounted for within the appropriate funds authorized by state law for use by the court.
 - B. Cash Bond Appearance Bond Fees collected in advance must be held in a “Clearing Account” until a determination of guilty, not guilty, dismissed, or nolle prosequi.
 - C. The Chancery Clerks and Municipal Clerks must maintain a “State Assessment Clearing Fund” to account for assessment collections received from court clerks and to be settled to State Agencies or refunded.
3. **Accounting Records** - Court Clerks must maintain accounting records to support collection and disbursement of assessments. Accounting procedures required by state law for other funds in the custody of the Court Clerk shall apply.

IV. SETTLEMENT OF ASSESSMENTS

1. **Daily Settlement** - all daily collections of assessments must be settled by the court clerk into the depository/treasury within one working day. (See Section 25-1-72)
2. **Monthly Settlement**
 - A. **County Courts** - all collections of assessments in county courts must be settled and reported by the Court Clerks to the Chancery Clerk on no less than a monthly basis (See Section 9-11-19). The Chancery Clerk must make monthly settlement of assessments to the appropriate state agency as required by these regulations and Section 99-19-73.
 - B. **Municipal Courts** - all collections of assessments in municipal court must be reported by the Court Clerk to the Municipal Clerk (at least) on a monthly basis. The Municipal Clerk must make a monthly settlement of

assessments to the appropriate state agency as require by the regulations and Section 99-19-73.

3. **Settlement Reports** - Settlement reports prepared by Court Clerks must contain all information required by the State Agency to designated by state law to receive the assessment collections. The court clerk must also provide such other information as may be required by state law and the county or municipality, respectively.
4. **Settlement Forms**
 - A. **State Agencies** - Each State Agency is authorized to prescribe a settlement form to be used by counties and municipalities when making assessment settlements. This form is to define assessments and provide such other information as the state agency may require for processing of the assessment settlement.
 - B. **Counties and Municipalities** - Chancery Clerks and Municipal Clerks are required to prepare and provide these completed forms to State Agencies when settlements of assessments are made.
5. **Settlement Codes** - State Agencies prescribing settlement forms may also prescribe settlement codes to be associated with each type of assessments. Court Clerks, Chancery Clerks, and Municipal Clerks must account for and settle assessments in association with these codes.
6. **Pre Code Assessment Collections** - When collections are made of assessments that were imposed by the court prior to being combined into the State Uniform Assessment system effective October 1, 1990, the amounts must be reclassified by type of violation and accounted for using the proper settlement code.

V. **REFUND OF ASSESSMENTS**

1. **Refunds By Counties or Municipalities**
 - A. **Authorization Of Refunds** - Court Clerks may authorize a refund of an assessment when any of the following circumstances occur.
 - (1) Over payments have been made due to collection error,
 - (2) upon a proper order of a court,
 - (3) or when a conviction has been overturned upon appeal.

B. Authorization Documentation - Certificates of Eligibility -
Authorizations must be documented as follows.

- (1) How Documented** - A “Certificate of Eligibility” is a mandatory document that must be issued by the Court Clerk to authorize refunds. This document must be prepared as a record of authorization, regardless of who makes the refund.
- (2) Form of Certificate of Eligibility** - A “Certificate of Eligibility” document must be written, signed by the court clerk and include the date, case number, payee, amount due and reason for the refund. This document may be take electronic form, as provided by Section 75-12-13.
- (3) Distribution of Certificate of Eligibility Copies** - Copies of the certificate must be provided to the person seeking refund, the Chancery Clerk or Municipal Clerk who is to make the refund; and a copy of all certificates issued must be maintained as a record in the Court Clerk’s office.

C. Payment of Refunds

- (1) County Refunds** - In counties; when authorized, the Chancery Clerk must refund collections which were previously settled to him or her by a court clerk. The Chancery Clerk must be provided with a “certificates of eligibility” to make the refund. Copies of all certificates received must be maintained as a record to support payment of the refund. It shall not be necessary for the Board of Supervisors to approve such refunds.
- (2) Municipal Refunds** - In municipalities; when authorized, the municipal clerk must refund collections which were previously settled to him or her by the court clerk. The Municipal Clerk must be provided with a “certificates of eligibility” to make the refund. Copies of all certificates received must be maintained as a record to support payment of the refund. It shall not be necessary for the governing authorities of the municipality to approve such refunds.
- (3) Court Clerk Refunds** - Court Clerk’s having custody of collections authorized for refund, and who have authority to sign checks on the depository account holding the overpayment, may make refunds from the overpaid funds.

D. Source of Refunds

- (1)** Refunds must be made from the funds into which the original money was settled. For example: an overpayment of state uniform

assessment collections which was settled into the “State Assessment Clearing Fund” may only be refunded from funds currently available in that fund.

- (2) If assessment money has already been settled to the state, refunds are made from later similar collections currently on hand. In counties, this includes the combined collections of similar funds from all county courts (justice, county, circuit and chancery courts).
- (3) If refunds payable exceed funds on hand and/or which will be available within a reasonable amount of time, a refund may be requested from the State Agency to whom the funds were settled. See the following procedure for “Refunds By State Agencies”.

2. Refunds By State Agencies

A. Authorization of Refunds

A State Agency (Department of Finance and Administration, Mississippi Department of Public Safety, etc.) is authorized to refund assessments when any of the following circumstances occurs.

- (1) Overpayments of settlements have been made by a county or municipality to the agency. Overpayments may be due to, but not limited to, accounting errors, settlement errors, or overturned convictions.
- (2) A court of competent jurisdiction orders a refund to be made.

B. Authorization Documentation

The county or municipality requesting a refund must provide the State Agency to whom the request is being made with all necessary documentation that a refund is being requested and has been authorized in accordance with these regulations. Documentation includes a copy of the official request for refund from the county or municipality, other information as may be required by the State Agency, and any of the following verifications that a refund is due.

- (1) A copy of a court order directing the refund. Such court order must be issued by a court of competent jurisdiction.
- (2) An audited report issued by a Certified Public Accountant verifying an overpayment.
- (3) A letter of verification of overpayment issued by the State Auditor or his designee.

C. Payment of Refunds

A State Agency may make authorized refund payments utilizing its usual procedures for issuing payments of obligations.

D. Source of Refunds

A State Agency may make payments from any funds legally available for payment of such obligations.